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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-109**

12 **BREDA MARY NELIS**
13 **2291 Stockton Street # 407**
14 **San Francisco, CA 94133**

A C C U S A T I O N

15 **Registered Nurse License No. RN 652370**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

- 19 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing.
21 2. On or about February 10, 2005, the Board of Registered Nursing issued Registered
22 Nurse License Number RN 652370 to Breda Mary Nelis (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought here and will
24 expire on May 31, 2012, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board) under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY/REGULATORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

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FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct)
(Bus. & Prof. Code §§ 2761(a), 2762(b))

12. Respondent has subjected her registered nurse license to disciplinary action under Code sections 2761(a) and 2762(b) in that she engaged in unprofessional conduct by using alcohol in a dangerous manner. The circumstances are as follows:

13. On or about March 2, 2009, the San Francisco Police Department received a report that Respondent had allegedly defaced four vehicles with graffiti then got into her car and drove away from the scene. Based on the vehicle identification information provided in the vandalism report, a San Francisco police officer located Respondent's vehicle and conducted an investigative stop to determine whether Respondent was involved in the alleged vandalism. A second police officer arrived on the scene and in the course of his investigation he detected a strong odor of alcohol emanating from the driver's side of Respondent's vehicle. Based on the strong odor of alcohol along with Respondent's admission that she had been drinking, the officer conducted a series of field sobriety tests which Respondent failed to perform satisfactorily. Respondent subsequently agreed to take a preliminary alcohol test, and based upon the results she was placed under arrest for driving under the influence of alcohol.

14. Once under arrest, the police officer gave Respondent a choice between a breath test and a blood test. Respondent chose the breath test which was administered twice. Respondent's first breath test yielded a blood alcohol content of .229% and the second breath test yielded a blood alcohol content of .230%.

SECOND CAUSE FOR DISCIPLINE
(Conviction)
(Bus. & Prof. Code §§ 490, 2761(f), 2762(c))

15. Complainant realleges the allegations contained in paragraphs 13 and 14 above, and incorporates them by reference as if fully set forth.

16. Respondent has subjected her registered nurse license to disciplinary action under Code sections 490, 2761(f), and 2762(c) as well as California Code of Regulations Title 16, section 1444 in that she was convicted of a crime involving the consumption of alcohol which is

1 substantially related to the qualifications, functions, and duties of a registered nurse. Specifically,
2 on or about May 15, 2009, in a criminal proceeding entitled *People of the State of California v.*
3 *Breda Nelis*, in the San Francisco County Superior Court, Case Number 2408453, Respondent
4 was convicted by a plea of no contest to one count of violating California Vehicle Code section
5 23152(b) (driving with a blood alcohol level of .08 % or higher), with a special enhancement of
6 California Vehicle Code section 23578 (driving with a blood alcohol level of .15% or higher).
7 Respondent was granted 3 years of probation on the condition that she serve 20 days in County
8 Jail. She was also ordered to pay restitution and enroll in a 9 month First Offenders Program.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters alleged here,
11 and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number RN 652370, issued to
13 Breda Mary Nelis;
- 14 2. Ordering Breda Mary Nelis to pay the Board of Registered Nursing the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 8/9/10

20 *for* *Louise R. Bailey*
21 LOUISE R. BAILEY, M.ED., R.N.
22 Interim Executive Officer
23 Board of Registered Nursing
24 State of California
25 Complainant

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